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Committee on Economic, Social and Cultural Rights

Sixty-third session

Summary record of the 19th meeting
Held at the Palais Wilson, Geneva, on Friday, 23 March 2018, at 10 a.m.

Chair: Mr. Kedzia (Vice-Chair)

Contents

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Fourth periodic report of New Zealand (*continued*)

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The meeting was called to order at 10 a.m.

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Fourth periodic report of New Zealand (*continued*) (E/C.12/NZ/4 and E/C.12/NZ/QPR/4)

1. *At the invitation of the Chair, the delegation of New Zealand took places at the Committee table.*

2. **Mr. Little** (New Zealand) said that disclosure statements, which referred to the compliance of draft legislation with international obligations, including the Covenant, would soon be obligatory for all bills coming before Parliament. Although no specific data was currently available on the total number of disclosure statements made to date with references to international instruments, selected examples included references to the Convention on the Rights of the Child in the statement relating to the national child poverty strategy and references to the Sustainable Development Goals in the disclosure statement relating to legislation on residential tenancies.

3. While it was true that the results of a survey of a cohort of students enrolled on a bachelor's degree in 2009 had indicated that 38 per cent had not completed their undergraduate studies within the eight-year period covered by the survey, that group had included adults who had only enrolled on certain modules and had never intended to complete the degree programme. A more reliable study of a cohort of students under the age of 20 had found that 76 per cent of students had completed at least a bachelor's degree within six years, 19 per cent had discontinued their studies and 5 per cent were still in higher education.

4. In order to ensure the independence of appointments to the New Zealand Human Rights Commission, applications were considered by a panel consisting of government officials and members of civil society.

5. **Mr. Taula** (New Zealand) said that disability employment data, including from a survey on disability, were published by Statistics New Zealand. To improve data quality, a working group, whose members included persons with disabilities and their representative organizations, had been established to provide advice and input, with the aim of contributing to the availability of new sources of disaggregated data.

6. The Government had no plans to amend existing legislation on reasonable accommodation. A wide range of services existed to integrate persons with disabilities into the labour market; they included training grants, internships and workplace modifications services. The national disability strategy was implemented through a comprehensive disability action plan that covered cross-government measures to enhance access to information, justice and technology, and to improve accessibility with regard to transport and housing. Rather than a purely medical or purely social model for its disability policies, the Government had opted for a mixed model. It was examining alternatives to the minimum wage exemption, which had been introduced to create job opportunities, foster inclusive employment and offer choices to persons with disabilities who could not find work on the open labour market. The majority of those covered by the exemption worked for companies that exclusively employed persons with disabilities.

7. **Mr. Little** (New Zealand) said that the new Government aimed to strengthen the labour inspection system. New occupational health and safety legislation had been introduced in response to public concerns about fatal accidents in the workplace. It also sought to improve the standing of workplace occupational safety and health committees: worker representation was vital to ensuring effective health and safety at work.

8. Measures were being taken to restore rights and reinstate the previous means of determining equal pay for work of equal value. The Government was working with the National Advisory Council on the Employment of Women on a pilot programme to support

women returning to careers in the information technology sector and their employment in non-traditional professions, such as in the construction industry.

9. The Government was committed to upholding the right to collective bargaining, and reforms introduced in 2017 had repealed regressive provisions and restored certain rights. For example, the new Government had taken steps to prohibit employers from unilaterally abandoning multi-employer collective bargaining negotiations and to restore the presumption that the collective bargaining process would result in a collective agreement. The Government was currently reviewing the collective bargaining framework, with a view to expanding the system. The applicability of the 90-day trial period at the start of an employment contract had been limited to workplaces with fewer than 20 workers.

10. On the issue of the reservation submitted under article 8 of the Covenant, he said that, while the Government was committed to effective trade union representation and collective bargaining rights, only strike action for economic reasons was lawful in New Zealand. Neither sympathy strikes nor those relating to social causes were permitted. The Government had no plans to change its position. Nevertheless, the authorities intended to take a progressive approach to labour relations and trade union rights.

11. Even if no explicit reference had been made to social security as a priority area, the Government was nevertheless committed to progressive and effective social security services. Indeed, social security measures provided the backbone for many of the Government's policies and strategies, including on child poverty.

12. **Mr. Taula** (New Zealand) said that the Government planned to review the national welfare system, including the sanctions imposed for non-compliance, in order to make sure that it was enabling rather than punitive. In principle, the sanctions regime was aimed at ensuring that people met their obligations. It was a graduated system of penalties, whereby non-compliance resulted in an incremental loss of benefits. However, sanctions were only imposed on a tiny proportion of non-compliant benefit claimants, and 40 per cent of persons sanctioned either had their sanction orders overturned or immediately met their obligations. Moreover, in cases involving mitigating factors such as addiction, support would be provided before sanctions were considered.

13. **Mr. Little** (New Zealand) said that government contracts signed with external social service providers varied in length depending on the type of activity involved. While the benefit fraud hotline operated by the Ministry of Social Development did receive some malicious calls, staff took steps to identify genuine reports. In 2017, staff had followed up on 2,300 of nearly 12,000 calls. The filtering process ensured that only genuine disclosures were investigated. There were no plans to do away with the hotline. The review of the social security system would include broad consultations, including with service providers, representative civil society organizations and the general public.

14. The Government sought to ensure employment opportunities for Māori and Pasifika, women, young people and persons with disabilities. Measures included investment in the regions, including those with large Māori populations, amounting to 1 billion New Zealand dollars ($NZ) per year, a fund to promote youth employment and the Families Package, which included measures to enhance household incomes.

15. **Ms. Shin** (Country Task Force) said that, given that the majority of complaints received by the Human Rights Commission were related to disability issues, she would like to know what was being done to ensure that the legal requirement to provide reasonable housing for persons with disabilities was widely understood and upheld. As the duration of some contracts with social service providers was limited to a single year, it would be interesting to know which activities were subject to that requirement.

16. While commending New Zealand for achieving one of the smallest gender pay gaps in the world, she asked whether the statutory approach to equal pay for work of equal value introduced in response to the successful claim filed by care and support workers in the aged and residential care sector would also apply to women working in other sectors. She also asked what was being done to prevent the exploitation of migrant workers.

17. **Ms. Bras Gomes** (Country Rapporteur) said that it would be advisable to include explicit reference to the Covenant in disclosure statements. While commending the

delegation on the clarity and comprehensiveness of the data provided, she asked why the majority of persons with three or more jobs were women. Noting that youth guarantee schemes were rarely successful, she wished to know what was being done to meet the needs of young persons with regard to employment. She also asked how the Government was implementing its plans to combat zero-hours contracts and what progress had been made towards carrying out the planned social security review. Lastly, she noted that the use of sanctions to punish non-compliance with welfare measures was harmful, as the recipients often had no other form of support and were unable to comply with their obligations.

18. **Ms. Shin** said that she wished to know how the Government intended to monitor the application of the 90-day trial period by companies with fewer than 20 employees, given that the majority of companies in New Zealand fell into that category.

19. **Mr. Little** (New Zealand) said that the Human Rights Commission had a dedicated commissioner for disability issues, who was responsible for handling complaints and raising awareness of disability rights, in particular among service providers. Although awareness was increasing, much remained to be done. Contracts with social service providers were limited to a single year if the project was a pilot; longer contracts were granted for ongoing commitments.

20. Following the success of the claim lodged by aged and residential care and support workers, women working in other fields had also brought similar cases. However, within the female-dominated industries, workers of each category would have to mount their own claim before they could enjoy the same benefits. Several organizations were helping them to do so. A legislative framework was also being developed to determine appropriate pay scales for all sectors without recourse to the courts.

21. The Labour Inspectorate was working with employers active in the sectors in which most migrant workers were employed. It had found that overseas students, who had the right to work 20 hours a week, were frequently being exploited. Penalties had been imposed on the employers concerned, and efforts to combat the problem were ongoing.

22. Although the majority of companies in New Zealand were classified as small businesses and were thus entitled to use the 90-day trial rule, in fact half of those companies had no employees and the rest employed only 30 per cent of the total workforce. An employer who wished to implement a 90-day trial period needed to sign a written employment agreement with the employee, and employees who were exploited had recourse to procedures through which they could ensure that their rights were respected. However, as employers were able to dismiss employees without reason during the 90-day trial period, employees so dismissed had no legal recourse and thus there were no statistics on such cases.

23. With regard to disclosure statements, he would convey the Committee's suggestions to his Government to ensure that explicit reference to the Covenant was inserted.

24. Although it was true that the majority of persons with three or more jobs were women, it should be noted that some women actively chose to work multiple jobs as it suited their lifestyle. However, some women were in that position out of necessity. Steps needed to be taken to ensure that they were not placed at a disadvantage under the labour framework.

25. The Government had a number of initiatives for young persons who were not in education, employment or training. All the initiatives included training elements to teach transferable skills. A subsidy for apprenticeships was also available.

26. **Mr. Sadi** (Country Task Force) said that, given that New Zealand was a developed country, he wished to know what the causes were behind the high rates of child poverty, housing deprivation and overcrowding and what was being done to address those issues. He also asked why housing was generally poorly heated and why so little social housing was available

27. Turning to the issue of an affordable and safe water supply, he expressed concern at reports of persistent difficulties in obtaining access to safe drinking water. The Havelock North Drinking Water Inquiry had found widespread and systematic failings in the supply

of safe drinking water throughout New Zealand. Nearly 800,000 people, or about 20 per cent of the population, were reportedly supplied with unsafe drinking water. Furthermore, it was reported that adequate compensation for damages suffered during the Canterbury earthquake and the 2016 earthquake in Kaikoura had apparently not been provided to many claimants.

28. He would welcome information on the reasons for the major mental health problems in the State party. He also invited the delegation to comment on the New Zealand Settlements Act of 1863, which had provided for the confiscation of land belonging to indigenous peoples.

The meeting was suspended at 11.10 a.m. and resumed at 11.30 a.m.

29. **Mr. Little** (New Zealand), referring to zero-hours contracts, said that employers who breached the law were prohibited from employing migrant workers and were liable to penalties. Since the prohibition of such contracts, 158 employers had been subjected to stand-down periods, and fines totalling more than $NZ 1 million had been imposed. Under the regime of instant penalties for infringements of other employment rights, fines totalling $NZ 469,000 had been imposed on 162 employers. Two cases of migrant worker exploitation had led to prison sentences.

30. Factors contributing to the problem of child poverty included rapidly rising accommodation costs. Rents had increased owing to the housing shortage, and low-income families' inability to pay high rents had led to a rapid increase in homelessness. However, most homeless people lived in overcrowded houses rather than on the street. The housing shortage was attributable to rapid population growth, especially in Auckland. Immigration rates were high and the housing stock had failed to cater for the increasing demand. Purchasers of property also included an enormous number of non-resident investors. Furthermore, local authorities frequently failed to take planning decisions on residential housing in a timely manner. The new Government was seeking to address such problems by imposing restrictions on non-resident offshore buyers and by providing for the construction of 100,000 affordable homes over the next 10 years under the KiwiBuild programme. It was also improving the rights of persons who depended on rental accommodation. Previous Governments had sold off many houses that had been used for social housing purposes. The new Government had therefore adopted a programme to build high-quality social housing.

31. Income disparity had grown, and wage increases for the lower levels of the workforce had been modest or non-existent. On the other hand, the lowest-paid 10 per cent of the workforce had benefited from a rise in income owing to increases in the minimum wage. Structural changes in the manufacturing sector had led to a decline in employment with large-scale manufacturers and in the number of well-paid jobs. There had been a growth in service industry jobs, which generally involved lower rates of pay. In addition, benefit reforms had adversely affected household incomes. The new Government was taking action through tripartite procedures to promote access to higher wages and to enhance productivity.

32. As water standards had not been properly monitored by the central and local authorities, the new Government was committed to imposing and strictly monitoring twenty-first century water standards. Unfortunately, many local authorities had failed to modernize their water supply infrastructure, which was exposed to leakages and contamination. Farming intensification could also lead to contamination. The Havelock North Drinking Water Inquiry had revealed that the water that had caused the incident in 2016 had been contaminated by *Escherichia coli* from livestock. On the other hand, overseas investors were seeking to extract the country's high-quality spring water for exportation.

33. About 2,600 of the roughly 190,000 claims for compensation following the 2010 and 2011 earthquakes remained unresolved. The Government was looking into the possibility of establishing a special tribunal to deal with the claims as expeditiously as possible.

34. The competent authorities were taking steps to ensure that conditions of depression and post-traumatic stress disorder were properly treated. Mental health issues were a

serious problem in some rural areas where people lived in isolation. A single incident could wipe out crops in weather-dependent industries and render their operations unviable, causing inordinate stress in rural households. Rural organizations such as Federated Farmers and Rural Support Trusts were developing networks to assist rural communities.

35. The impact of colonization, which had entailed confiscation of the land of indigenous peoples and suppression of their cultural expression and language, was ongoing. Action to address breaches of the 1840 Treaty of Waitangi, which guaranteed the same rights to the Māori people as to British citizens, was therefore of key importance. The Treaty settlement process had gone some way towards improving the status of Māori in many communities. Settlement should have taken place by consent rather than by conquest, but the Treaty principle of consent had been breached, contributing to the many current mental health issues. The new Government had launched an inquiry into gaps in mental health services and would give top priority to appropriate treatment and support.

36. **Ms. Liebenberg** said that the Committee had been informed that the financing of housing was a key issue in the State party, not only for lower income groups but also for persons with disabilities, older persons, widows, Māori and their extended families, and women who had been subjected to domestic violence. The Special Rapporteur on adequate housing had recently noted that housing was treated as a commercial and financial asset as opposed to a fundamental human right.

37. According to a 2017 report in *The Economist*, housing in the State party was the most unaffordable in the world and house prices in Auckland had risen by, on average, 75 per cent in the previous four years. Dramatic increases had also been recorded in rental housing prices. For instance, rents in Wellington had increased by up to 8.3 per cent, while incomes had risen by only about 1 per cent. One in every three low-income households spent over 40 per cent of their income on housing.

38. She asked what steps were being taken to regulate the private housing market, for example through rent control and measures to restrict speculation, especially in cases where houses were left vacant for a lengthy period. She also wished to know how the legal system dealt with evictions by public authorities or private actors such as banks and landlords. Could the courts investigate the impact of an eviction on vulnerable groups and did they grant orders of alternative accommodation if the result was homelessness? She urged the State party to examine the Committee's general comments Nos. 4 and 7, which outlined the implications of a rights-based approach to housing.

39. **Mr. Uprimny** said that the Committee had been informed that there were significant disparities in rights between Māori and Pasifika and other New Zealanders. They reportedly recorded high rates of chronic diseases and had difficulty in accessing health services because of socioeconomic barriers. For instance, Māori were 1.4 times more likely to be denied access to primary health care. He requested information on concrete strategies being developed by the new Government to reduce those inequalities.

40. **Mr. Chen**, noting that, of the 178 priorities in the Human Rights Commission's Action Plan for Human Rights, adopted in 2005, only 21 had been achieved by 2008 and no progress at all had been made on 24, asked whether the second Action Plan, for the period 2010–2015, had been produced.

41. **Ms. Bras Gomes** said that it would be interesting to hear whether the Government intended to extend its well-structured strategy for reducing child poverty to encompass poverty in general. Given the positive impact of the zero-fees policy for primary health-care visits for children under 13 years, she wished to learn whether it would be feasible to extend it to cover all children under 18 years. While the Action Plan for Human Rights was commendable for its approach to the implementation of the recommendations made to the State party within the framework of the universal periodic review, it would be fitting to expand the remit of the Plan to include the recommendations made by human rights treaty bodies.

42. **Mr. Little** (New Zealand) said that the Government considered housing to be a human right and was striving to ensure that residential housing was not treated as a commercial asset. Under the bright-line test, the resale of residential property that had not

been occupied since being purchased was subject to capital gains tax. The new Government had extended the qualifying period for the test from two to five years. Overseas investors were no longer permitted to buy existing property in New Zealand; they were instead obliged to build a new house.

43. With regard to evictions, landlords were obliged to follow a statutory process that was overseen by the Tenancy Tribunal and were not permitted to evict tenants with little or no notice unless they had caused wilful damage to a property. A separate procedure governed the process to be followed by banks when forcing the sale of a property in case of mortgage payment defaults, including with regard to the disposal of the proceeds.

44. **Ms. Meijer** (New Zealand) said that, although many challenges remained, some progress had been made in addressing the disparities in health outcomes for different population groups. As a result of the zero-fees policy for children under 13 years, the number of doctor's visits had increased by 15 per cent among Māori children and by 11 per cent among Pasifika children in the two years to 2016. The number of Māori women accessing breast cancer screening had risen from 51 per cent to 65 per cent between 2007 and 2015, while the rates of sudden unexpected deaths among Māori infants had dropped from 4 per 1,000 live births in 1996 to 1 per 1,000 live births in 2012. First-time hospital admissions for rheumatic fever, which almost exclusively affected Māori and Pasifika children, had dropped by 48 per cent between 2012 and 2016.

45. The Government was making efforts to improve the performance and accountability of district health boards by raising the requirements in the area of equitable outcomes when negotiating annual contracts with them. The authorities were working collaboratively with underserved populations to design a range of innovative services for the Māori and Pasifika population groups, older persons and persons with disabilities.

46. **Ms. Greaney** (New Zealand) said that the Human Rights Commission was working with the relevant agencies to update the Action Plan for Human Rights to include the recommendations of human rights treaty bodies and the Sustainable Development Goals. It had also set up an interactive online tool to provide citizens with timely access to up-to-date information on the Government's progress against its international commitments and obligations.

47. **Mr. Little** (New Zealand) said that the Government had made tackling the chronic problem of child poverty one of its top priorities. Addressing that issue would inevitably have a positive impact on poverty in general. The general legislation regulating social security also helped to alleviate poverty and hardship for all.

48. The possibility of extending the zero-fees policy to all children under 18 years was being considered. An advisory group had been set up to advise the Minister of Health on a broad range of strategic actions to improve the health of all citizens and overcome the effects of long-term underinvestment in the health-care sector.

49. **The Chair** said that the Committee appreciated the State party's willingness to comply with the newly introduced use of lists of issues prior to reporting. In its concluding observations, the Committee would highlight three priority recommendations for follow-up within 18 months.

The meeting rose at 12.30 p.m.